

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF PUERTO RICO**

**IN THE MATTER OF:**

ARCADIO CLAUDIO MORALES

Debtor

CASE NO. 09-02888 BKT

CHAPTER 13

**MOTION TO DISMISS**

COMES NOW, R&G MORTGAGE CORPORATION represented by the undersigned attorney and respectfully sets forth and prays:

The undersigned attorney has been advised by the Federal Deposit Insurance Corporation ("FDIC") as Receiver for R-G Premier Bank whose assets were sold to Scotiabank on April 30, 2010 to continue with the legal representation of R-G Mortgage Corporation as servicing agent of R-G Premier Bank, now Scotiabank.

1. That the appearing creditor is the holder of a mortgage note in the principal balance amount of \$75,161.45, which encumbers debtor's (debtors') residence.

2. That the Plan provides for debtor(s) to continue making current post petition monthly payments to the appearing secured creditor.

3. That debtor(s) has failed to comply with the proposed terms of the Plan and currently owe the appearing secured creditor the sum \$1,849.84 (8/10 -9/10 + LC + LFees) in post petition arrears. See Exhibit "A" attached.

4. Pursuant to the provisions of section 1307 (c) (6) of the Code 11 USCS Section 1307 (c) (6), a party in interest may request the dismissal of a Chapter 13 bankruptcy petition whenever there is a material default by the debtor(s) with respect to a term of a confirmed plan.

5. The Courts have found cause for the dismissal of Chapter 13 bankruptcy case when the debtor(s) failed to make the payments directly to the creditor as called for under the terms of the confirmed Plan. See Estes v. Garcia, 42 Bankr. 33 (Bankr. D. Colo. 1984).

6. Included with this motion is a Verified Statement regarding the information required by this Servicemembers Civil Relief Act of 2003, and a Department of Defense Manpower Data Center Military Status Report.

WHEREFORE the appearing secured creditor prays for an order dismissing the above captioned case.

**NOTICE OF RESPONSE TIME**

Within thirty (30) days after service as evidenced by the certification, and an additional three (3) days pursuant to Fed. R. Bank. P. 9006(f) if you were served by mail, any party against whom this paper has been served, or any other party to the action who objects to the relief sought herein, shall serve and file an objection or other appropriate response to this paper with the Clerk's office of the U.S. Bankruptcy Court for the District of Puerto Rico. If no objection or other response is filed within the time allowed herein, the paper will be deemed unopposed and may be granted unless: (i) the requested relief is forbidden by law; (ii) the requested relief is against public policy; or (iii) in the opinion of the Court, the interest of justice requires otherwise.

**CERTIFICATE OF ELECTRONIC FILING AND SERVICE**

I hereby certify that on this date copy of this motion has been electronically filed with the Clerk of the Court using the CM/ECF system which will sent notification of such filing to debtor(s) attorney and to JOSE R. CARRION MORALES, US Chapter 13 Trustee, and also certify that I have mailed by United State Postal Service copy of this motion to the following non CM/ECF participant to debtor(s) at theirs address of record in this case.

In San Juan, Puerto Rico, on the 24 day of September, 2010.

**CARDONA JIMENEZ LAW OFFICE**  
Attorney for R&G MORTGAGE CORPORATION  
PO Box 9023593  
San Juan, PR 00902-3593  
Tels: (787) 724-1303, Fax No. (787) 724-1369  
E-mail: [cardonalaw@prtc.net](mailto:cardonalaw@prtc.net)

/s/José F. Cardona Jiménez, USDC PR 124504  
[jf@cardonalaw.com](mailto:jf@cardonalaw.com)





**EXHIBIT - A**

**Request for Legal Action**

**TO: Cardona - Jimenez Law Office**

Loan Number 1574

Debtor: ARCADIO CLAUDIO

Debtor:

BKR #: 09-02888

Date Filed: 04/12/09

Total Payments Due: 2

Pre-Petition: 0

Post-Petition: 2

**Post-Petition Arrears:**

2	Months @	871.00	1,742.00	Unearnd Interest \$	0.00
0	Months @	0.00	0.00	Per-Diem Interest Factor \$	0.00
0	Months @	0.00	0.00		
2	Late Charges @	41.42	82.84	Accured Interest \$	0.00
From: 08/01/10 To: 09/01/10			From: 08/01/10 To: 09/01/10		

**SUBTOTAL** \$1,824.84

Attorney Fees 0.00

Inspections 0.00

Returned Check, Taxes, Insurance 0.00

Other Charges 25.00

**TOTAL** \$1,849.84

**NOTE:**

All reinstallment payments must be made up to the current month, including legal fees and late charges.

**DUE DATE:** 08/01/10

**PRINCIPAL BALANCE**

\$75,161.45

**Verified Statement**

I, the undersigned, declare under penalty of perjury that the amount claimed by Movant in the foregoing Motion represents accurately the information kept in accounting books and records kept by Movant in the ordinary course of business. I further declare under penalty of perjury that I have read the foregoing Motion and that the facts alleged are true and correct to the best of my knowledge.

Name: Abraham Rivera Berríos

Title: Vicepresident Legal Division & Bankruptcy Dept.

(Signature)

This Verified Statement was prepared this 20 day of September of 2010 and includes all payments received until said date.

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF PUERTO RICO**

**IN THE MATTER OF:**

ARCADIO CLAUDIO MORALES

**Debtor(s)**

CASE NO. 09-02888 BKT

CHAPTER 13

**VERIFIED STATEMENT**

I, ABRAHAM RIVERA BERRIOS, of legal age, married, Manager of the Legal Division and Bankruptcy Department at R-G Mortgage, Corp. and resident of Guaynabo, Puerto Rico, declare under penalty of perjury as follows:

That as to this date September 23, 2010, by a search and review of the records kept by R&G MORTGAGE CORPORATION in the regular course of business in regard to debtor account with this bank there is no information that will lead the undersign to belief that debtor is a regular service member either on active duty or under a call to active duty, in the National Guard or as a Commission Officer of the Public Health Services or the National Oceanic and Atmospheric Administration (NOAA) in active duty.

The bank has not received any written notice from debtor that his military status has change as to this date.

That as part of my search I examined the documents and records available to me within our computer system.

IN TESTIMONY WHEREOF I SIGN THESE PRESENTS under penalty of perjury, in San Juan, Puerto Rico this 23 day of September, 2010.



\_\_\_\_\_  
Abraham Rivera Berríos

Department of Defense Manpower Data Center

Sep-23-2010 06:12:42



Military Status Report  
Pursuant to the Service Members Civil Relief Act

Last Name	First/Middle	Begin Date	Active Duty Status	Active Duty End Date	Service Agency
CLAUDIO	ARCADIO	Based on the information you have furnished, the DMDC does not possess any information indicating the individual status.			

Upon searching the information data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the current status of the individual as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard).

*Mary M. Snavelly-Dixon*

Mary M. Snavelly-Dixon, Director  
Department of Defense - Manpower Data Center  
1600 Wilson Blvd., Suite 400  
Arlington, VA 22209-2593

The Defense Manpower Data Center (DMDC) is an organization of the Department of Defense that maintains the Defense Enrollment and Eligibility Reporting System (DEERS) database which is the official source of data on eligibility for military medical care and other eligibility systems.

The DoD strongly supports the enforcement of the Service Members Civil Relief Act (50 USC App. §§ 501 et seq, as amended) (SCRA) (formerly known as the Soldiers' and Sailors' Civil Relief Act of 1940). DMDC has issued hundreds of thousands of "does not possess any information indicating that the individual is currently on active duty" responses, and has experienced a small error rate. In the event the individual referenced above, or any family member, friend, or representative asserts in any manner that the individual is on active duty, or is otherwise entitled to the protections of the SCRA, you are strongly encouraged to obtain further verification of the person's status by contacting that person's Service via the "defense link.mil" URL <http://www.defenselink.mil/faq/pis/PC09SLDR.html>. If you have evidence the person is on active duty and you fail to obtain this additional Service verification, punitive provisions of the SCRA may be invoked against you. See 50 USC App. § 521(c).

If you obtain additional information about the person (e.g., an SSN, improved accuracy of DOB, a middle name), you can submit your request again at this Web site and we will provide a new certificate for that query.

This response reflects **active duty status** including date the individual was last on active duty, if it was within the preceding 367 days. For historical information, please contact the Service SCRA points-of-contact.

***More information on "Active Duty Status"***

Active duty status as reported in this certificate is defined in accordance with 10 USC § 101(d)(1) for a period of more than 30 consecutive days. In the case of a member of the National Guard, includes service under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under 32 USC § 502(f) for purposes of responding to a national emergency declared by the President and supported by Federal funds. All Active Guard Reserve (AGR) members must be assigned against an authorized mobilization position in the unit they support. This includes Navy TARs, Marine Corps ARs and Coast Guard RPAs. Active Duty status also applies to a Uniformed Service member who is an active duty commissioned officer of the U.S. Public Health Service or the National Oceanic and Atmospheric Administration (NOAA Commissioned Corps) for a period of more than 30 consecutive days.

***Coverage Under the SCRA is Broader in Some Cases***

Coverage under the SCRA is broader in some cases and includes some categories of persons on active duty for purposes of the SCRA who would not be reported as on Active Duty under this certificate.

Many times orders are amended to extend the period of active duty, which would extend SCRA protections. Persons seeking to rely on this website certification should check to make sure the orders on which SCRA protections are based have not been amended to extend the inclusive dates of service. Furthermore, some protections of the SCRA may extend to persons who have received orders to report for active duty or to be inducted, but who have not actually begun active duty or actually reported for induction. The Last Date on Active Duty entry is important because a number of protections of SCRA extend beyond the last dates of active duty.

Those who would rely on this certificate are urged to seek qualified legal counsel to ensure that all rights guaranteed to Service members under the SCRA are protected.

WARNING: This certificate was provided based on a name and SSN provided by the requester. Providing an erroneous name or SSN will cause an erroneous certificate to be provided.

Report ID:QHLHVG2QRD

Label Matrix for local noticing  
0104-3  
Case 09-02888-BKT13  
District of Puerto Rico  
Old San Juan  
Wed Sep 22 12:36:00 AST 2010

R&G MORTGAGE CORPORATION  
CARDONA JIMENEZ LAW OFFICE  
PO BOX 9023593  
SAN JUAN, PR 00902-3593

BANCO BILBAO VIZCAYA  
PO BOX 364745  
SAN JUAN, PR 00936-4745

COOPERATIVA VEGABAJE A, INC.  
APARTADO 4622  
VEGA BAJA, PR 00694-4622

ISLAND FINANCE  
PO BOX 4645  
VEGA BAJA, PR 00694-4645

PR ACQUISITIONS LLC  
270 MUNOZ RIVERA AVENUE SUITE 400  
SAN JUAN PR 00918-1910  
866-600-4753

Roundup Funding, LLC  
MS 550  
PO Box 91121  
Seattle, WA 98111-9221

JUAN O CALDERON LITHGOW  
JUAN O CALDERON LITHGOW LEGAL OFFICE  
PO BOX 1710  
VEGA BAJA, PR 00694-1710

BANCO BILBAO VIZCAYA ARGENTARIA  
PO BOX 364745  
SAN JUAN, PR 00936-4745

RECOVERY MANAGEMENT SYSTEMS CORP  
RAMESH SINGH  
25 SE 2ND AVE STE 1120  
MIAMI, FL 33131-1605

BANCO POPULAR DE PUERTO RICO  
BANKRUPTCY DEPARTMENT  
PO BOX 366818  
SAN JUAN PR 00936-6818

FIA CARD SERVICES  
PO BOX 15726  
WILMINGTON, DE 19886-5726

MUEBLERIA RIVERA  
PO BOX 578  
ARECIBO, PR 00613-0578

R&G MORTGAGE  
PO BOX 362394  
SAN JUAN, PR 00936-2394

ARCADIO CLAUDIO MORALES  
CALLE 9A BUZN 83  
PUEBLO NUEVO  
VEGA BAJA, PR 00693

MONSITA LECAROS ARRIBAS  
OFFICE OF THE US TRUSTEE (UST)  
OCHOA BUILDING  
500 TANCA STREET SUITE 301  
SAN JUAN, PR 00901-1938

JEFFERSON CAPITAL SYSTEMS LLC  
PO BOX 7999  
ST CLOUD, MN 56302-7999

US Bankruptcy Court District of P.R.  
U.S. Post Office and Courthouse Building  
300 Recinto Sur Street, Room 109  
San Juan, PR 00901-1964

CITI CARDS  
PO BOX 183051  
COLUMBUS, OH 43218-3051

FIRST PREMIER BANK  
PO BOX 5519  
SIOUX FALLS, SD 57117-5519

POPULAR FINANCE  
PO BOX 336090  
PONCE, PR 00733-6090

Recovery Management Systems Corporation  
For GE Money Bank  
dba WAL-MART DISCOVER CARD  
25 SE 2nd Ave Ste 1120  
Miami FL 33131-1605

JOSE RAMON CARRION MORALES  
PO BOX 9023884  
SAN JUAN, PR 00902-3884

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(d)JEFFERSON CAPITAL SYSTEMS LLC  
PO BOX 7999  
ST CLOUD MN 56302-7999

(d)R&G MORTGAGE CORPORATION  
CARDONA-JIMENEZ LAW OFFICE  
P.O. BOX 9023593  
SAN JUAN, PR 00902-3593

End of Label Matrix	
Mailable recipients	22
Bypassed recipients	2
Total	24